

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

PAUL H. SAUNDERS,

Plaintiff,

2006-CV-0129

v.

THE PENLAND RESERVE TRACT, LLC and
ANTHONY PORTER,

Defendants.

TO: Stacey E. Plaskett, Esq.
Eric S. Chancellor, Esq.

ORDER REGARDING MOTION OF NEIL O'ROURKE TO QUASH SUBPOENA

THIS MATTER came before the Court upon Motion of Neil O'Rourke to Quash the Subpoena dated November 16, 2007 (Docket No. 29). Plaintiff filed an opposition to said motion. The time for filing a reply has expired.

It is well established that “[a]n officer, director or managing agent of a corporation which is party to a lawsuit is subject to deposition on notice only, without the need for a subpoena. *See, e.g.*, 8A Charles Alan Wright, Arthur R. Miller & Richard L. Marcus, *Federal Practice and Procedure*, § 2107, p. 58 (2d ed. 1994).” *Bro-Tech Corp. v. Thermax, Inc.*, Civil Action No. 05-2330, 2006 WL 3337496 (E.D. Pa. November 16, 2006). *See also O'Conner v. Trans Union Corp.*, No. Civ. A 97-4633, 1998 WL 372667 (E.D. Pa. May 11, 1998).

Saunders v. The Penland Reserve Tract, LLC
2006-CV-0129
Order Regarding Motion of Neil O'Rourke to Quash Subpoena
Page 2

In the matter at bar, the Court finds that Neil O'Rourke is an officer, director or managing agent of The Penland Reserve Tract, LLC, which is a party to this lawsuit. Consequently, the Court finds that Neil O'Rourke is subject to deposition on notice only. The record reflects that Plaintiff did issue a notice of deposition for Neil O'Rourke. It appears that Plaintiff also served Neil O'Rourke with a subpoena, despite that fact that such subpoena was unnecessary. Because the date and time contained in the deposition notice has passed, the Court will cancel such notice and allow Plaintiff to re-notice the said deposition for a date, time, and location that is acceptable to the parties.

Accordingly, it is now hereby **ORDERED**:

1. Motion of Neil O'Rourke to Quash the Subpoena (Docket No. 29) is **GRANTED IN PART AND DENIED IN PART.**
2. The notice of deposition (Docket No. 28) of Neil O'Rourke for December 3, 2007, is **CANCELED**.
3. Plaintiff may serve an amended notice of deposition for a date, time, location acceptable to the parties.

ENTER:

Dated: January 24, 2008

/s/
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE